

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DERRICK ERVIN,

Petitioner,

v.

Civ No. 19-1218 KG-JHR

JAMES JANECKA, *et al*,

Respondents.

ORDER DENYING MOTION TO PROCEED *IN FORMA PAUPERIS*

This matter is before the Court upon Petitioner's Motion to Proceed *In Forma Pauperis*. (Doc. 2). Petitioner seeks to prosecute his 28 U.S.C. § 2254 habeas action without prepaying the \$5.00 fee. Such relief is only available where the petitioner's "affidavit [and] ... statement of ... assets [demonstrates he] ... is unable to pay such fees or give security therefor." 28 U.S.C. § 1915(a)(1). Petitioner does not qualify under that test. His financial statement reflects he receives \$40-\$90 per month and has \$47.29 in his inmate spending account. (Doc. 2) at 2. The Court will therefore deny the Motion.

IT IS ORDERED:

1. Petitioner's Motion to Proceed *In Forma Pauperis*. (Doc. 2) is denied.
2. No later than June 8, 2020, Petitioner must prepay the \$5.00 filing fee.
3. The failure to timely comply will result in dismissal of this case without further notice.



UNITED STATES DISTRICT JUDGE